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10/668,446

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EXAMINER

ARAQUE JR, GERARDO

ART UNIT

PAPER NUMBER

3689

MAIL DATE

DELIVERY MODE

03/24/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/668,446

Applicant(s)

TALARICO, ANTHONY M.

Examiner

GERARDO ARAQUE JR

Art Unit

3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/19/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claim 2** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant claims, "...at least one display member..." However, the Examiner asserts that there is no support or guidance, which defines what a display member exactly is and, as a result, is considered new matter.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 5 – 6** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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6. In regards to **steps 5.i.A and 5.i.B.**, the Examiner is uncertain as to what the applicant is trying to claim. As best understood by the Examiner, steps A and B are claiming the same thing and there is not difference in the two steps. Further still, the applicant claims, "providing a second printed barcode for use by said cleaning personnel during said patrol." However, what is the second printed barcode being used for?

7. The term "substantially" in **claims 1 – 26, 28, and 38** is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1 – 4, 7 – 17, 19 – 20, and 22 – 26** are rejected under 35 U.S.C. 102(b) as being anticipated by **Shotey (US PGPub 2002/0004740 A1)**.

10. In regards to **claims 1, 7 – 9, 12 – 13, 19, and 20**, **Shotey** discloses an **apparatus** for diarizing janitorial services during janitorial cleaning patrol by janitorial cleaning personnel along a janitorial cleaning patrol route that includes at least one janitorial cleaning zone of a facility, said apparatus comprising:

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a portable unit adapted to be carried by said cleaning personnel, said portable unit including an outer casing that frames a display (306), a plurality of keys (302), a docking port (316), a barcode reader (510), and computing hardware interconnecting said display, said keys, said docking port and said barcode reader (**Fig. 5**);

wherein said barcode reader operatively scans said first printed barcode substantially contemporaneous with a janitorial cleaning of each said zone (**¶ 58**); and

wherein said computing hardware operatively records a completion of said janitorial cleaning of each said zone (**Fig. 6**).

11. In regards to **claim 2**, **Shotey** discloses further comprising:

wherein said barcode reader operatively scans said second printed barcode substantially contemporaneous with a janitorial performance of each said prescribed janitorial cleaning task in one said zone (**¶ 58**); and

wherein said computing hardware operatively records said janitorial performance of said prescribed janitorial cleaning in one said zone (**Fig. 6**).

In regards to “at least a second printed barcode representative of a prescribed janitorial cleaning task;” the Examiner asserts that this limitation fails to provide any structural limitations for the apparatus. That is to say, mounting a barcode in a cleaning zone fails to provide any structural limitations to the portable unit.

12. In regards to **claims 3 – 4, and 22**, the Examiner asserts that the applicant is only disclosing non-functional descriptive subject matter for an apparatus claim and contains no structural elements to further limit the apparatus of claim 1.

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13. In regards to **claims 10, 17, and 26, Shotey** discloses additionally comprising a microphone and wherein said computing hardware also operatively records a comment of said janitorial cleaning personnel that is associated with said completion of said janitorial cleaning of each said zone (**¶ 121**).

14. In regards to **claim 11, 14, and 23, Shotey** discloses wherein said output device is a wireless transmitter operatively transmitting said completion of said janitorial cleaning of each said zone to a wireless receiver (**Fig. 3 - 314**).

15. In regards to **claim 15, 23, and 24, Shotey** discloses wherein said uploading occurs each time said computing hardware records one said completion of said janitorial cleaning of each said zone (**¶ 94**).

16. In regards to **claim 16 and 25, Shotey** discloses wherein said portable unit additionally functions as a cellular phone (**¶ 74**).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. **Claim 21** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Shotey (US PGPub 2002/0004740 A1)** in view of **Scribner et al. (US Patent 4,688,026)**.

19. In regards to **claim 21, Shotey** fails to disclose wherein said ID code is an RF tag that is operatively received by the portable unit from substantially local to said one said service zone.

However, **Scribner** discloses that it is old and well known to use RF tags since they have the advantage in that the transmitted signals are not disturbed by most normally found items in a building; and, therefore the transmitted code can be detected by a suitable sensor without requiring a substantially direct “line of sight” between the transmitter and receiving devices as is generally required in optical transmission schemes (**Col. 4 Lines 30 – 36**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Shotey** in view of the teachings to **Scribner** for the ID code to be an RF tag for the various advantages discussed above.

20. **Claims 5 – 6, 18, and 27 – 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Scribner et al. (US Patent 4,688,026)**.

21. In regards to **claim 5**, **Scribner** discloses a portable computer-based method of diarizing the performance of janitorial services during a patrol by janitorial cleaning personnel along a janitorial cleaning patrol route that includes at least one prescribed janitorial cleaning task in at least one janitorial cleaning zone of a facility, said method comprising the steps of:

- i.A. mounting a first printed barcode substantially local to each said janitorial cleaning zone (**See at least Fig. 1 – 10, 12, 16, 18, and 14**);
- i.B. providing a second printed barcode for use by said cleaning personnel during said patrol (**See at least Fig. 1 – 10, 12, 16, 18, and 14**);
- i.C. determining whether a next one said janitorial cleaning zone remains to be cleaned (**Col. 3 Lines 18 – 23, 27 – 32**);

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- ii. presenting said next one said janitorial cleaning zone to said janitorial cleaning personnel (**Col. 3 Lines 12 – 18, 27 – 32; Fig. 1**);
- iii. waiting for a scan of the first printed barcode that corresponds to said next one said janitorial cleaning zone (**Col. 3 23 – 27; Col. 4 Lines 53 – 59; Fig. 1**);
- iv. determining whether a next one said prescribed janitorial cleaning task remains to be performed in said one said janitorial cleaning zone (**Col. 3 Lines 23 – 27**);
- v. presenting said next one said prescribed janitorial task to said janitorial cleaning personnel (**Col. 3 Lines 12 – 18**);
- vi. waiting for a scan of said printed second barcode that corresponds to said next one said prescribed janitorial cleaning task (**Col. 3 Lines 23 – 27**);
- vii. repeating steps iv – vi until no prescribed janitorial cleaning task remains to be completed in said one said janitorial cleaning zone (**obviously included; see also Col. 9 Lines 31 – 36**); and,
- viii. repeating steps i.C. – vii until no janitorial cleaning zone remains to be cleaned (**obviously included; see also Col. 9 Lines 31 – 36**).

The Examiner would also like to make note that although **Scribner** does not disclose janitorial services **Scribner** does disclose maintenance services. The Examiner asserts that it would have been obvious to one skilled in the art that janitorial services also include maintenance services.

22. In regards to **claim 6 and 37**, **Scribner** discloses further comprising the steps of:

a recording step of recording a time when each said scan occurs according to step (iii) and step (iv) (**Col. 9 Lines 31 – 36**); and

an uploading step of uploading said time to a host computer (**Fig. 4**).

23. In regards to **claim 18 and 38**, **Scribner** discloses wherein said uploading step occurs in real-time substantially contemporaneous with each said time (**Col. 1 Lines 33 – 36; Col. 3 Lines 18 – 23**).

24. In regards to **claims 27 and 31 – 32**, **Scribner** discloses a method of diarizing performance of services during a patrol by service personnel along a patrol route that includes at least one prescribed servicing task in at least one service zone of a facility, said method comprising the steps of:

- i. assigning an ID code to each said zone (**Fig. 1 - 10, 12, 14**);
- ii. providing a task set that includes one or more task codes, with each of said task codes corresponding one each to each said prescribed servicing task (**Col. 3 Lines 12 – 18**);
- iii. determining whether a next one said zone remains to be serviced (**Col. 3 Lines 18 – 23, 27 – 32**);
- iv. waiting for a scan of said ID code that corresponds to said next one said zone (**Col. 3 23 – 27; Col. 4 Lines 53 – 59; Fig. 1**);
- v. determining whether a next one said prescribed servicing task remains to be completed in said one said zone (**Col. 3 Lines 23 – 27**);
- vi. waiting for a scan of said task code that corresponds to said next one said prescribed servicing task (**Col. 3 Lines 23 – 27**);

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- vii. repeating steps v – vi until no prescribed task remains to be completed in said one said zone (**see at least Col. 9 Lines 31 – 36**); and,
- viii. repeating steps iii – vii until no zone remains to be serviced (**See at least Col. 9 Lines 31 – 36**).

The Examiner would also like to make note that although **Scribner** does not disclose janitorial services **Scribner** does disclose maintenance services. The Examiner asserts that it would have been obvious to one skilled in the art that janitorial services also include maintenance services.

25. In regards to **claims 28 – 30**, **Scribner** discloses wherein each said ID code is printed barcode, and where in step (e), said printed barcode is mounted substantially local to each said zone (**Col. 1 Lines 33 – 36**).

26. In regards to **claim 33**, **Scribner** discloses wherein each said step (iii) is performed by one of said service personnel responsible for completing said prescribed servicing task (**obviously included see at least Col. 3 Lines 12 - 20; Col. 9 Lines 31 - 36**)).

27. In regards to **claim 34**, **Scribner** discloses wherein said step (iii) is performed at a central control location (**Col. 2 Lines 25 – 33**).

28. In regards to **claim 35**, **Scribner** discloses wherein said step (v) is performed by one of said service personnel responsible for completing said prescribed servicing task (**obviously included**).

29. In regards to **claim 36**, **Scribner** discloses wherein said step v) is performed at a central control location (**Col. 2 Lines 25 – 33**).

Response to Arguments

30. Applicant's arguments filed **12/17/2007** have been fully considered but they are not persuasive.

31. Applicant's arguments with respect to **claims 5 – 6 and 27 – 38** have been considered but are moot in view of the new ground(s) of rejection.

Rejection under 35 USC 102

32. In response to applicant's argument that **Shotey** fails to disclose, "an apparatus for diarizing **janitorial** services during a **cleaning** patrol", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

33. Applicant argues that **Shotey** fails to disclose a display, keypad, docking port, or barcode reader. However, the applicant has already addressed that **Shotey** does indeed disclose the above claimed limitations.

34. In response to applicant's argument that **Shotey** fails to disclose, "that its barcode reader is operable to receive a barcode scan representative of a cleaning task", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

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35. In response to applicant's argument that **Shotey** fails to disclose that the computer hardware is not, "operable to record completion of a cleaning task corresponding to a received barcode", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claims 2 – 4, 10 – 11, 14 – 15, and 24

36. Applicant argues that **Shotey** fails to disclose:

- i. a printed barcode representative of prescribed janitorial task;
- ii. a barcode reader that performs a scan when a prescribed janitorial task is completed;
- iii. computing hardware that records performance of prescribed janitorial cleaning tasks;
- iv. computing hardware that presents, on a display, either a zone to be cleaned, or a janitorial cleaning task to be performed; or
- v. a second printed barcode mounted substantially local to another cleaning zone along a cleaning route.

However, as discussed above, all of the above limitations fail to provide any structural limitations for the apparatus.

37. In response to applicant's argument that **Shotey** fails to disclose, "a system that is capable of recording a comment made by janitorial cleaning personnel in relation to cleaning of a janitorial zone. In face there is no disclosure whatsoever regarding any

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form of voice *recording*", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Further still, the Examiner also notes that the applicant fails to claim a system, but an apparatus. Regarding the argument that **Shotey** fails disclose any form of voice recording, the Examiner respectfully disagrees and points the applicant to reread ¶121 which clearly shows the use of a voice recognition system, also known as a voice recording system.

38. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, **Scribner** discloses that it is old and well known to use RF tags since they have the advantage in that the transmitted signals are not disturbed by most normally found items in a building; and, therefore the transmitted code can be detected by a suitable sensor without requiring a substantially direct "line of sight" between the transmitter and receiving devices as is generally required in optical transmission schemes (**Col. 4 Lines 30 – 36**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Shotey** in view of the teachings to **Scribner** for the ID code to be an RF tag for the various advantages discussed above.

Furthermore, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Conclusion

39. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GERARDO ARAQUE JR whose telephone number is (571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. A./
Examiner, Art Unit 3689
3/14/2007

/Janice A. Mooneyham/
Supervisory Patent Examiner, Art Unit 3689